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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,315	08/23/2006	Dyna Kellie Predebon	A-10172	8142
20741 7590 05/11/2009 HOFFMAN WASSON & GITLER, P.C. CRYSTAL CENTER 2, SUITE 522 2461 SOUTH CLARK STREET ARLINGTON, VA 22202-3843				
EXAMINER				
LUGO, CARLOS				
ART UNIT		PAPER NUMBER		
3673				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,315

Applicant(s)

PREDEBON, DYNA KELLIE

Examiner

CARLOS LUGO

Art Unit

3673

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on April 9, 2009.

Claim Objections

2. **Claim 9 is objected** to because of the following informalities:

- Rewrite claim 9 as follows in order to clearly claim the invention:

-The stay as claimed in claim 3, wherein the door stay further comprises a band member having a first portion attached to the first part, a second portion attached to the second part, and a main portion extending between the first and second ends of the band member; wherein the band member is positioned on the door edge so that the first portion passed over one of the door handles, the main portion is placed over the latch tongue, and the second portion passed over the other door handle-.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-6 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,288,257 to Zacherl in view of US Pat No 5,291,631 to Schjoneman.

Regarding claim 1, Zacherl discloses a door stay that is a toy that comprises a first part (14 at one side) adapted to be positioned at one side of a door (D), a second part (14 at the other side) adapted to be positioned at the other side of the door, and an intermediate portion (23) having sufficient thickness such that the pivoting movement of the door is restricted by the door stay, the thickness of the intermediate portion precluding the door from closing to a point at which the door is contained within the door frame (attachment #1).

However, Zacherl fails to disclose that the first and second parts are attached to respective door handles so that the intermediate portion is located at the side of the door closed to the door handles. Zacherl discloses a different method to attach the device to the door (suction cups).

Schjoneman teaches that it is well known in the art to provide a similar device to preclude a door from closing to a point at which the door is contained within a door frame wherein the first and second parts (12 and 14) are attached to respective door handles (30) and the intermediate portion (16) is positioned at a side of the door close to the handles.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the device described by Zacherl to the door handles, as taught by Schjoneman, in order to securely secure the device in place, while precluding the door from closing to a point at which the door is contained within the door frame.

As to claim 2, Zacherl, as modified by Schjoneman, teaches that the door has a latch tongue and the stay prevents the latch tongue from entering into a keeper on the door jamb.

As to claim 3, Zacherl discloses that the toy is a plush toy having first and second arms. The arms comprise the first and second parts and the body of the toy the intermediate portion.

As to claim 4, Zacherl, as modified by Schjoneman, teaches that the first arm member and the second arm member are provided with openings through which the door handle can pass to attach the respective arm member to the door handle.

As to claim 5, Zacherl, as modified by Schjoneman, teaches that the openings are elasticized to enable the opening to be enlarged such that the handle can pass through the opening.

As to claim 6, Zacherl, as modified by Schjoneman, teaches that the first part and/or the second part comprise an elastic band adapted to fit about the door handle.

5. **Claim 7 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,288,257 to Zacherl in view of US Pat No 5,291,631 to Schjoneman and further in view of US Pat No 5,297,692 to Kronmiller.

Zacherl, as modified by Schjoneman, fails to disclose the use of a hoop and loop connection (Velcro) on the first and second parts.

Kronmiller teaches that the use of hoop and loop (Velcro) to make a connection having a loop (22b) that grasp an object (15) in a door closing device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Zacherl, as modified by Schjoneman, as a hoop and loop connection strap that when is connected together it would create a supported piece, as taught by Kronmiller, in order to provide an easier way to assemble the first and second parts to the handles.

6. **Claim 8 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,288,257 to Zacherl in view of US Pat No 5,291,631 to Schjoneman and further in view of US Pat No 848,644 to Flegel.

Zacherl, as modified by Schjoneman, fails to disclose the use of a ribbon to make the connection between the arms and the handle.

Flegel teaches the use of a ribbon (C) to make a connection between a door closing device and a handle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Zacherl, as modified by Schjoneman, with a ribbon to connect the device to a handle, as taught by Flegel, in order to provide an easier way to assemble the first and second parts to the handles.

7. **Claims 1-6 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,291,631 to Schjoneman in view of US Pat No 5,288,257 to Zacherl.

Regarding claim 1, Schjoneman discloses a door stay comprising a first part (12) adapted to be supported by a door handle (30), a second part (14) adapted to be supported by the door handle (30) on the other side of the door, and an intermediate

part (16) that is adapted to extend over an edge of the door to precluding the door from closing to a point at which the door is contained within the door frame (Col. 3 Lines 60-68).

However, Schjoneman fails to disclose that a toy comprises the first, second and intermediate parts. Schjoneman discloses a device comprising the elements without the ornamental part (the toy).

Zacherl teaches that it is well known in the art to provide a door closing device that comprises a toy (10) having a first and a second part (14) adapted to preclude a door from closing to a point at which the door is contained within a door frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device by Schjoneman with a toy, as taught by Zacherl, because is considered as a design consideration since the toy is considered as a mere ornament.

As to claim 2, Schjoneman discloses that the door is capable of having a latch tongue and that the stay is capable of preventing the latch tongue from entering into a keeper on the door jamb.

As to claim 3, Schjoneman, as modified by Zacherl, teaches that the toy is a plush toy having first and second arms. The arms comprise the first and second parts and the body of the toy the intermediate portion.

As to claim 4, Schjoneman discloses that the first arm member and the second arm member are provided with openings through which the door handle can pass to attach the respective arm member to the door handle.

As to claim 5, Schjoneman discloses that the openings are elasticized to enable the opening to be enlarged such that the handle can pass through the opening.

As to claim 6, Schjoneman discloses that the first part and/or the second part comprise an elastic band adapted to fit about the door handle.

8. **Claim 7 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,291,631 to Schjoneman in view of US Pat No 5,288,257 to Zacherl and further in view of US Pat No 5,297,692 to Kronmiller.

Schjoneman, as modified by Zacherl, fails to disclose the use of a hoop and loop connection (Velcro) on the first and second parts.

Kronmiller teaches that the use of hoop and loop (Velcro) to make a connection having a loop (22b) that grasp an object (15) in a door closing device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Schjoneman, as modified by Zacherl, as a hoop and loop connection strap that when is connected together it would create a supported piece, as taught by Kronmiller, in order to provide an easier way to assemble the first and second parts to the handles.

9. **Claim 8 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,291,631 to Schjoneman in view of US Pat No 5,288,257 to Zacherl and further in view of US Pat No 848,644 to Flegel.

Schjoneman, as modified by Zacherl, fails to disclose the use of a ribbon to make the connection between the arms and the handle.

Flegel teaches the use of a ribbon (C) to make a connection between a door closing device and a handle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Schjoneman, as modified by Zacherl, with a ribbon to connect the device to a handle, as taught by Flegel, in order to provide an easier way to assemble the first and second parts to the handles.

10. **Claims 1-6 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 5,288,257 to Zacherl and further in view of US Pat No 5,291,631 to Schjoneman.

Regarding claim 1, Radcliff discloses a door stay comprising a first part (17) adapted to be supported by a door handle (5), a second part (19) adapted to be supported by the door handle (3) on the other side of the door, and an intermediate part (23 inside 11) that is adapted to extend over an edge of the door to prevent the door from closing.

However, Radcliff fails to disclose that a toy comprises the first, second and intermediate parts. Radcliff discloses a device comprising the elements without the ornamental part (the toy).

Zacherl teaches that it is well known in the art to provide a door closing device that comprises a toy (10) having a first and a second part (14) adapted to preclude a door from closing to a point at which the door is contained within a door frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device by Radcliff with a toy, as taught by Zacherl, because is considered as a design consideration since the toy is considered as a mere ornament.

With respect to the fact that the intermediate portion extends over the edge of the door to preclude the door from closing to a point at which the door is contained within the door frame, Radcliff device is capable of preventing the door to be contained within the door frame.

Radcliff discloses that the door may be closed within the door frame; not that is required. Further, as shown in Col. 2 Lines 35-50, first, in order to put the door within the door frame is required a significant force because of the friction exerted between the intermediate portion 11 and the door frame. In other words, is not easy to move the door within the door frame. Also, Radcliff cites that the chamber 14 of the body 11 is filled with stuffing 23. One of ordinary skill in the art could place sufficient stuffing into the chamber of member 11; enough to don't allow the door within the door frame. Therefore, Radcliff is capable of preventing the door to be contained within the door frame.

Nevertheless, Schjoneman teaches a similar device (12, 14 and 16), wherein the intermediate portion will preclude a door from closing to a point at which the door is contained within a door frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the intermediate portion described by Radcliff to

preclude the door to be contained within the door jamb, as taught by Schjoneman, in order to prevent any accident.

As to claim 2, Radcliff discloses that the door has a latch tongue (7) and the stay prevents the latch tongue from entering into a keeper on the door jamb.

As to claim 3, Radcliff, as modified by Zacherl, teaches that the toy is a plush toy having first and second arms. The arms comprise the first and second parts and the body of the toy the intermediate portion.

As to claim 4, Radcliff discloses that the first arm member and the second arm member are provided with openings through which the door handle can pass to attach the respective arm member to the door handle.

As to claim 5, Radcliff discloses that the openings are elasticized to enable the opening to be enlarged such that the handle can pass through the opening.

As to claim 6, Radcliff discloses that the first part and/or the second part comprise an elastic band adapted to fit about the door handle.

11. **Claim 7 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 5,288,257 to Zacherl and US Pat No 5,291,631 to Schjoneman and further in view of US Pat No 5,297,692 to Kronmiller.

Radcliff, as modified by Zacherl and Schjoneman, fails to disclose the use of a hoop and loop connection (Velcro) on the first and second parts.

Kronmiller teaches that the use of hoop and loop (Velcro) to make a connection having a loop (22b) that grasp an object (15) in a door closing device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Radcliff, as modified by Zacherl and Schjoneman, as a hoop and loop connection strap that when is connected together it would create a supported piece, as taught by Kronmiller, in order to provide an easier way to assemble the first and second parts to the handles.

12. **Claim 8 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 5,288,257 to Zacherl and US Pat No 5,291,631 to Schjoneman and further in view of US Pat No 848,644 to Flegel.

Radcliff, as modified by Zacherl and Schjoneman, fails to disclose the use of a ribbon to make the connection between the arms and the handle.

Flegel teaches the use of a ribbon (C) to make a connection between a door closing device and a handle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Radcliff, as modified by Zacherl and Schjoneman, with a ribbon to connect the device to a handle, as taught by Flegel, in order to provide an easier way to assemble the first and second parts to the handles.

Allowable Subject Matter

13. **Claim 9 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (**see claim objection section above**).

Response to Arguments

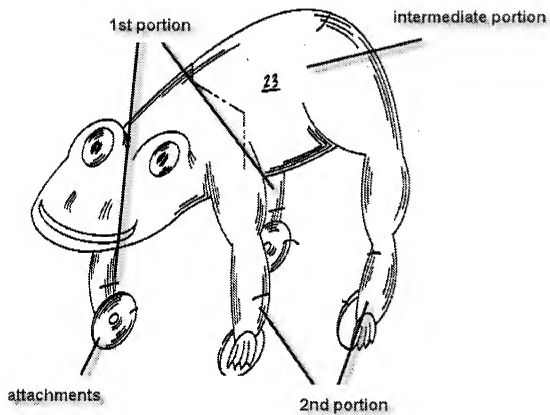
14. The current amendment overcomes the previous rejection to the claims. However, a new rejection to the claims has been made on the record.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

May 6, 2009.



Attachment #1